The Honorable Marsha J. Pechman

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DIANNE KELLEY and KENNETH HANSEN,

Plaintiffs,

v.

MICROSOFT CORPORATION, a Washington corporation,

Defendant.

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No. C 07-475 MJP

DECLARATION OF KHIOTA
THERRIEN IN SUPPORT OF
MICROSOFT'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION

Khiota Therrien declares as follows:

1.   I am an Online Product Manager for Microsoft Corporation in Redmond, Washington. I have held this position since 2002. In April of 2006, I began working on Windows-Vista related Web postings and activities but continued to work on other tasks as well. Since June of 2006, I have focused on Windows Vista-related Web postings and activities. In this position, I work with Windows marketing professionals to manage Web projects and oversee the official Microsoft Web presence for Windows Vista. I make this declaration based upon my personal knowledge acquired in this position.

2.   On May 18, 2006, Microsoft posted several Web pages on the Internet describing all aspects of the Windows Vista Capable program, including the "Premium

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Ready" designation, the various editions of Windows Vista and their features, and the "Upgrade Advisor," which allowed users to determine which edition of Windows Vista they could load onto their existing XP machine. True and correct copies of these Web pages, which I have confirmed the content of, are attached as the following exhibits. Exhibits A, C, D, and E show the web pages as they appeared on May 23, 2006, just a few days after the launch. Exhibits B and F were added later. All of them remained posted, with some changes that are not relevant here, until at least the general release of Windows Vista on January 30, 2007. Prominent links to these Web pages were posted on www.microsoft.com during this time.

3.   Exhibit A: www.windowsvista/getready/capable page, which describes the Windows Vista Capable and Premium Ready PC programs as of May 23, 2006.

4.   Exhibit B: www.windowsvista/getready/editions page, which contains a "Features" chart with checkmarks that clearly shows that Windows Vista Home Basic does not include the Aero user interface. This page was posted as of November 19, 2006.

5.   Exhibit C: www.windowsvista/getready/editions pages, which describe each of the Windows Vista editions as of May 23, 2006.

6.   Exhibit D: www.windowsvista/features pages for "home," for "business," and for "everyone." These pages describe the features in detail, broken down by edition and customer category, as of May 23, 2006.

7.   Exhibit E: www.windowsvista/getready /upgradeadvisor pages, from the Upgrade Advisor Beta version (released in May 2006). The Upgrade Advisor Release Candidate version was released in September 2006, and the final Upgrade Advisor version was released in November 2006. All of these Web pages, and the Upgrade Advisor tool they contained, were designed to help PC owners determine whether they could upgrade their existing PCs with the Windows XP operating system installed to an edition of Windows

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1   Vista. The FAQ section of these pages clearly stated that the "...new user experience

2   Windows Aero require[s] advanced or additional hardware."

3   8.   Exhibit F: www.windowsvista/getready/express upgrade page, which explains

4   the Express Upgrade program and contains links to the Windows Vista Capable and Windows

5   Vista editions pages.

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7   I declare under penalty of perjury that the foregoing is true and correct.

8   Executed on *November 16*, 2007.

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10   Khiota Therrien

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